



**CITY OF PONDERAY
REGULAR
MEETING MINUTES
December 21st, 2020**

COUNCILMEMBER PRESIDENT McNEARNEY CALLED THE MEETING TO ORDER AT 6:00 P.M.

PRESENT: Councilmember McNearney, Councilmember Mitton, Councilmember Thompson (by Zoom)

ALSO, PRESENT: Clerk Warren, Attorney Marshall, Chief Cornelius (by Zoom), Engineer Shaw, Deputy Clerk Peterson, Planner Miller

ABSENT: Mayor Steve Geiger, Councilmember Osborne, City Planner Brubaker

CONFLICTS OF INTEREST AND/OR DISCLOSURES:

Councilmember President McNearney acknowledged the conflict of interest and disclosures statement.

AMEND AGENDA: Planner Miller asked that the Agenda be amended as File SS20-025 was not fully listed on the Agenda; it was properly noticed with the exception of the agenda error. Please add file SS20-025 to the agenda which was intended to be listed and was advertised in the newspaper. Councilmember Mitton asked if this should have been amended at the beginning of the meeting. Attorney Louis said it was fine to amend it during the meeting.

Motion to Amend the Agenda and add File SS20-025 Subdivision Review – Lew’s Industrial Park Plat
Councilmember Thompson/Mitton. Roll Call Vote. All Voted in Favor. Motion Approved.

PUBLIC COMMENT:

CONSENT AGENDA:

- A. Approve Bills \$38,094.81
- B. Approve December 7th, 2020 Regular Council Meeting Minutes
- C. Acknowledge Attorney Report

Motion to Approve the Consent Agenda

Councilmember Mitton/Thompson. Roll Call Vote. All Voted in Favor. Motion Approved.

DEPARTMENT REPORTS/UPDATES – Santa Sack updates were given by Planner Miller... 500 gift bags were delivered to elderly adults, children and babies. All were very grateful. Thank you to Mayor Geiger and Council for allowing us to continue with this event.

MAYOR:

CLERK: Clerk Warren stated she had received liquor license renewals for Ponderay One Stop and Laughing Dog Brewing. We are still waiting on Felkers Northern Smoke BBQ and Sandpoint Elks.

Motion to Approve the renewal of 2021 Liquor Licenses

Councilmember Thompson/Mitton. Roll Call Vote. All Voted in Favor. Motion Approved.

POLICE: Chief Cornelius gave kudos to Planner Miller with the Santa Sack project. Gave an update on Sgt. Victorino’s memorial. He also spoke of a break in at Laughing Dog Brewing. Councilmember Mitton mentioned that traffic was picking back up and asked if we could get more police over in the neighborhood. Chief said they would work on spending more time in the area.

STREET/PUBLIC WORKS: Engineer Shaw had given updates on the Urban Area Transportation Plan, Wal-Mart Bus Pad – which is still requiring a little work before it is complete. The McNearney Road potholes have been filled, and he is currently waiting to hear from the Military before moving forward with Field of Dreams. Clerk Warren mentioned there is a big pothole where Kootenai Road and McNearney come together. Engineer Shaw will check it out.

PLANNING, PARKS & COMMUNITY DEVELOPMENT:

A. File UP20-061 Spielman, LLC, Special Use Permit, Public Hearing

The purpose of this public hearing is to consider an application for File UP20-061 Spielman, LLC is requesting Special Use Permit approval to allow for light industrial uses on a commercially zoned parcel, as is allowed by Ponderay City Code. The proposed will occur within the existing 60'x120' structure which was originally constructed to house a Yamaha Dealership. The property received site plan approval from the City of Ponderay in 1997. No new impervious surface is proposed as a part of this application. The property is located off Triangle Drive at its intersection with Bonner Mall Way in Section 11, Township 57 North, Range 2 West, Boise Meridian. The current use of the structure is metal fabrication. There were no conflicts of interest or disclosures.

Public Hearing opened at 6:15 pm.

Planner Miller started with a presentation. A description of the property was given. Site information was given. This was routed out for Agency review. Pat Park building official noted that after review of the proposed special use permit application, he recommends approval. He further noted that a change of use permit is needed for each tenant. Avista noted that they recommend approval of the project. Independent Highway District noted that the proposed change should not affect the road usage or maintenance. Kootenai-Ponderay Sewer District noted they need updated usage application to ensure that they have consistent and accurate information for the tenants that are occupying the sites. At the time this application was submitted, they have 3 tenants occupying the building, all meet the light industrial criteria. Planning Commission recommended approval of this application as presented with the proposed conditions of approval. No comments or written comments received.

Closed Public Hearing at 6:21 pm.

Motion to Approve application FILE # UP20-061, requesting special use permit approval to develop a light industrial use in the commercial zoning district, finding that it is in accord with the applicable sections of Ponderay City Code as enumerated in the findings of fact and conclusions of law in the staff report, and based upon the evidence submitted up to the time the staff report was prepared and testimony received at this hearing I further move to adopt the findings of fact, conclusions of law, and conditions of approval in the staff report.
Councilmember Thompson/Mitton. Roll Call Vote. All Voted in Favor. Motion Approved.

B. File VS20-024 Title 50 Vacation of Platted Easement, Ponderay Industrial Park, LLC and City of Ponderay

The purpose of this public hearing is to consider an application for Ponderay Industrial Park, LLC and the City of Ponderay are requesting approval to vacate the west 30-feet of an easement for access and utilities which was depicted on the face of the Ponderay Place plat, recorded in 2014, Instrument 861642, Book 11, Page 20, Bonner County records. While the easement is depicted, it was not properly reserved in the owner's certificate of the plat or via easement and was therefore determined to be invalid by the City in 2017 when the Diedrich site plan was reviewed. At that time, the east 30-feet of the depicted easement was dedicated to the City of Ponderay as public right-of-way. Now Ponderay and Ponderay Industrial Park, LLC wish to formally vacate the remaining portion of the depicted easement to clarify its status in the public records. This application is being processed simultaneously with file SS20-025, Lew's Industrial Park plat. The easement is located south of Highway 200 and east of Hawthorne Avenue in Section 11, Township 57 North Range 2 West, Bonner County Idaho. No conflicts of interest or disclosures.

Public Hearing opened at 6:25 pm.

Planner Miller had given a presentation. The area was identified in the presentation. While Ponderay City Code is silent regarding Vacation of Plats and Public R-O-W, Idaho Code 50-1306A establishes a process by which to vacate a platted easement for ingress and egress. This was routed for Agency review. Pat Park, Building Official noted that after review of the proposed vacation of easement, he recommends approval. Ponderay Police Chief Cornelius had no comment. Avista recommends approval of the project. Independent Highway District commented that the 30-foot right of way is insufficient for any future street. Planner Miller said she would agree with this but the purpose of this 30-foot strip is not for a street, it is for future drainage and greenbelt. At that time, they dedicated a 60-foot strip over Hawthorne which is where we intend that travel way to be. Sandpoint Water noted an issue with a conflict on the plan set, this has been corrected since. They did note that there is a fire hydrant that needed to retain a utility easement to it, it is located in the dedicated right of way. Planning Commission recommends approval of this projects as presented. There is no condition of approval. You will see a recommended condition of approval with the file that follows this, that requires that this area be noted as a vacated portion when they record the plat for the next file, so we have that document in the public record that shows that area has been formally vacated. Comment by Councilmember McNearney when it was originally a 60-foot right of way, it was dated back to an earlier plan and we were trying to maintain a road right of way through there, when Diedrich's property came along they replaced that right of way with a more convenient one down the middle of the property and just went back to a 30-foot easement for drainage, because there is a major drainage through there. Planner Miller stated that was accurate. There was public comment submitted prior to the Public Hearing from Lloyd Graham that stated he was neutral to the project. Marty Taylor with James A. Sewell & Associates added there is a (inaudible) consistent exception to the property subject to easement (inaudible) vacate this to its entirety and clear up this question of whether there is an easement or not. No other comments or questions.

Close Public Hearing at 6:32 pm

Motion to Approve this application FILE #VS20-024, requesting approval to vacate a 30-foot easement for ingress, egress and utilities depicted on the face of the Ponderay Place, finding that it is in accord with the applicable sections of Ponderay City Code and Idaho Code as enumerated in the findings of fact and conclusions of law in the staff report, and based upon the evidence submitted up to the time the staff report was prepared, and testimony received at this hearing. I further move to adopt the findings of fact, conclusion of law, and conditions of approval in the staff report.

Councilmember Thompson/Mitton. Roll Call Vote. All Voted in Favor. Motion Approved.

C. Amended Agenda to add – File SS20-025 Subdivision Review – Lew’s Industrial Park Plat

The purpose of this public hearing is to consider an application for Ponderay Place, Lots 1 (5.294) and 2 (6.2 ac) into 9 industrial lots ranging in size from +/- .49 acres to +/- 2.8 acres. The property is located on Hawthorne Avenue off Highway 200 in Section 11, Township 57 North Range 2 West, Bonner County Idaho. This request is being considered simultaneously with file VS20-024. No conflicts of interest or disclosures.

Open Public Hearing 6:35 p.m.

A presentation was given by Planner Miller. Site Data, Access, Environmental Factors, Services, and Stormwater information was given. Staff has proposed conditions A-3 and A-4 relating to the access, those read that prior to final plat the recording applicant shall submit a final stormwater plan modification that documents for us that the street meets public standards, that all the stormwater facilities have been designed to incorporate all the imperious surface there are some unknowns in this, so at this time there was sense in having them build the final plan, until they receive that approval. There are comments from our City Engineer, saying that he is satisfied with waiting until they are done trenching and putting in utilities and provide the final plans. A-4 states all lots shall have frontage on a public street. All streets including the proposed hammerhead, shall be constructed in compliance with the “Ponderay typical street section” for public streets or a comparable section to the satisfaction of the City Engineer. The stormwater management and erosion control plan was prepared by B. Scott Brown, P.E., Tucker brown and Vermeer for phase one of the Diedrich facility and by Tim Blankenship, P.E., James A. Sewell and Associates. Both were reviewed by our City Engineer. However, documentation is needed to prove the existing access drive complies with that required for a public street. They have met all application requirements. Should the applicant bond for some of the improvements; proposed condition A-11, Should the applicant choose to pursue a bond for any portion of the site development, a developer agreement between the City of Ponderay and the Landowner shall be executed prior to bond acceptance and final plat recordation. With the construction of the hammerhead, they will all have the frontage requirement. The current Diedrich facility is meeting all setback requirements and all other projects will be reviewed during the site plan application process for setbacks. This was routed to Agencies in September. Pat Park, Building Official recommends approval. Police Chief had no comment. Avista recommends approval. Independent Highway District commented about the right of way, and vacation, meeting that 60-foot right of way width. Sandpoint Water, believed that there was an error in the drawings that related to the placement of the water surface, this has been corrected. HMH Engineering commented there ok with us looking at that as the street is cut. Public comment from Lloyd Graham – he is neutral to the project. At the Planning Commission Hearing we had a member of the public who testified, Randal Marley represents the Marley Estate, he noted he did not think it was fair that the City would spend tax dollars to build a street for the developer and wondered if the City would commit to doing the for him. Planner Miller advised him that the Planning Commission can not commit funds in the future and that we were not proposing any construction of a street at anyone’s expense at this point, only the hammerhead for turn around. Councilmember Thompson had an objection, not with the project itself but this industrial zone and the consideration of extending 7th Street on towards the residential section and allowing the industrial access to come off intentionally into the residential section is something that I do not feel is appropriate. I do like the hammerhead idea and the coming and going of traffic through that hammerhead, but I do not like the idea of intentionally building a connection extending 7th Street to bring the industrial traffic into the residents. Planner Miller said from the Staff’s perspective it would happen more like the other way, that the residential traffic would have another way out of the village and would be able to use the industrial streets to get out to the highway and it was more likely that the industrial traffic would probably extend up to the traffic light on McGhee road, when that connection is made to get to the highway. Councilmember Thompson asked how can we prevent it from happening the opposite, bringing them the residential way. Planner Miller stated the long and short of it is that there is a connection through there then they would have the ability to come that way because Elm is a truck route. So, they would have the ability to come that direction and I think that as we eventually see the Marley Project Site develop out that can be addressed before any connection is made because we will know what is going in there and we will know what that traffic flow will look like, and our engineers can weigh in at that time. But if we do not get those dedications of right of way in place now, that option is never available for us in the future, because construction would occur and potentially block that. Presentation was given by the applicant. Applicant respectfully requests approval with the preliminary plat as presented. There was public comment, he had no complaint with Lew’s subdividing, he was wondering if there had been talk about going eastbound off the hammerhead into the industrial area, has anyone contacted Lignetics. Planner Miller stated Lignetics is not in our jurisdiction, it is within the City of Kootenai, there is no public right of way to connect into it at this time but the proposed dedication of right of way does connect all the way to that property boundary so construction could occur at any point, that right of way was obtained out to McGhee. No other questions or comments.

Close Public Hearing at 6:55 p.m.

Deliberations were made. Councilmember Thompson still feels it is not a good idea to bring industrial traffic into the residential area. Councilmember Mitton asked how much traffic would we have coming on there, Elm street has always been a truck street. Councilmember McNearney suggested waiting till a later time to address the traffic on 7th street, after a connection is made.

Motion to approve this application, FILE #SS20-025, requesting subdivision approval to divide subdivide Ponderay Place, Lots 1 (5.294) and 2 (6.2 ac) into 9 industrial lots ranging in size from +/- .49 acres to +/- 2.8 acres, finding that it is in accord with the applicable sections of Ponderay City Code as enumerated in the findings of fact and conclusions of law in the staff report, and based upon the evidence submitted up to the time the staff report was prepared and testimony received at this hearing. I further move to adopt the findings of fact, conclusions of law, and conditions of approval in the staff report.

Councilmember Mitton/McNearney. Roll Call Vote. Mitton/McNearney in Favor. Thompson Not in Favor. Motion Approved.

MISCELLANEOUS REPORTS:

ORDINANCES, RESOLUTIONS, PROCLAMATIONS, CONTRACTS:

OLD BUSINESS: Councilmember Thompson asked about 104, have they caught up? Clerk Warren stated 104 came in and paid two thirds of what they owe. They will be in before its due in January which is a little over \$8,000.00.

PUBLIC COMMENT: Councilmember Mitton followed up with Planner Brubaker regarding the non-compliance issue, is this still on the radar, has anyone heard where we are with this. Planner Miller said the carport upfront has been deconstructed and moved, she has not seen any relocation of the building, and did not have the most up to date information as Planner Brubaker has been working with them.

**Councilmember Mitton/Thompson.
Meeting adjourned 7:05 p.m.**

City Clerk/Treasurer Su Warren-Brown

Mayor Steve Geiger